



5001-06-P

**DEPARTMENT OF DEFENSE**

**Defense Acquisition Regulations System**

**48 CFR Parts 211 and 252**

**[Docket DARS-2019-0056]**

**RIN 0750-AK59**

**Defense Federal Acquisition Regulation Supplement: Repeal of  
DFARS Provision "Alternate Preservation, Packaging, and Packing"  
(DFARS Case 2019-D022)**

**AGENCY:** Defense Acquisition Regulations System, Department of Defense (DoD).

**ACTION:** Final rule.

**SUMMARY:** DoD is issuing a final rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to remove a provision that is no longer necessary pursuant to action taken by the DoD Regulatory Reform Task Force.

**DATES:** Effective October 1, 2020.

**FOR FURTHER INFORMATION CONTACT:** Ms. Carrie Moore, telephone 571-372-6093.

**SUPPLEMENTARY INFORMATION:**

**I. Background**

DoD published a proposed rule in the *Federal Register* at 85 FR 19721 on April 8, 2020, to remove the provision at DFARS 252.211-7004, Alternate Preservation, Packaging, and Packing,

and the associated prescription from the DFARS, because the provision is no longer necessary. No public comments were received in response to the proposed rule. No changes were made to the rule, as proposed.

## **II. Applicability to Contracts at or Below the Simplified Acquisition Threshold and for Commercial Items, including Commercially Available Off-The-Shelf Items**

This rule only removes the obsolete solicitation provision at DFARS 252.211-7004, Alternate Preservation, Packaging, and Packing. This rule does not impose any new requirements on contracts at or below the simplified acquisition threshold, or commercial items, including commercially available off-the-shelf items.

## **III. Executive Orders 12866 and 13563**

E.O.s 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This is not a significant regulatory action and, therefore, was not subject to review under section 6(b) of E.O. 12866, Regulatory Planning and Review, dated

September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

#### **IV. Executive Order 13771**

This rule is not subject to E.O. 13771, because this rule is not a significant regulatory action under E.O. 12866.

#### **V. Regulatory Flexibility Act**

DoD does not expect this rule to have a significant economic impact on a substantial number of small businesses within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, et seq., because the rule is not creating any new requirements for contractors or changing any existing policies or practices. However, a final regulatory flexibility analysis has been prepared and is summarized as follows:

The Department of Defense is amending the Defense Federal Acquisition Regulation Supplement (DFARS) to repeal DFARS provision 252.211-7004, Alternate Preservation, Packaging, and Packing, as the provision is no longer necessary. The objective of this rule is to reduce regulatory burden on the public. This repeal is pursuant to action taken by the Regulatory Reform Task Force established under Executive Order (E.O.) 13777, Enforcing the Regulatory Reform Agenda.

No public comments were received in response to the initial regulatory flexibility analysis.

DoD does not collect data on the number of small businesses that respond to a solicitation that includes DFARS clause 252.211-7004 or the number of small businesses responding to such a solicitation with alternative preservation, packaging, or packing methods. Instead, DoD subject matter experts advise that approximately 375 solicitations are issued each year that contain military preservation, packaging, or packing requirements where commercial or industrial methods may also be acceptable. DoD estimates that it receives 1.5 responses to each solicitation, for a total of 563 offers received in response to these solicitation. This total estimated number of responses does not delineate between the business size of the offerors or those offerors that did and did not propose alternative methods for preservation, packaging, or packing in lieu of military specifications. Based on the information available, DoD does not anticipate that this rule will significantly impact small business entities.

This rule does not include any new reporting, recordkeeping, or other compliance requirements for small businesses.

There are no known alternative to the rule that will meet the stated objectives or minimize the impact on of the rule on small entities.

## **VI. Paperwork Reduction Act**

This rule removes the burden associated with DFARS 252.211-7004 from the information collection requirement currently approved under 0704-0398, entitled DFARS Part 211, Describing Agency Needs, and Related Clause at DFARS 252.211. This reduction is reflected in the revision to and extension of the information collection, as published in the *Federal Register* on February 27, 2020, at 85 FR 11351, and May 28, 2020, at 85 FR 32019.

#### **List of Subjects in 48 CFR Parts 211 and 252**

Government procurement.

**Jennifer D. Johnson,**

*Regulatory Control Officer, Defense Acquisition Regulations System.*

Therefore 48 CFR parts 211 and 252 are amended as follows:

1. The authority citation for 48 CFR parts 211 and 252 continues to read as follows:

Authority: 41 U.S.C. 1303 and 48 CFR chapter 1.

#### **PART 211—DESCRIBING AGENCY NEEDS**

##### **211.272 [Removed and Reserved]**

2. Remove and reserve section 211.272.

#### **PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES**

##### **252.211-7004 [Removed and Reserved]**

3. Remove and reserve section 252.211-7004.

